

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

HENRY PALACIOS-MARTINEZ,

Defendant-Appellant.

UNPUBLISHED

October 4, 2005

No. 253864

Macomb Circuit Court

LC No. 03-001281-FH

Before: Saad, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of delivery of over forty-five kilograms of marijuana, MCL 333.7401(2)(d)(i), and conspiracy to deliver over forty-five kilograms of marijuana, MCL 750.157a, and was sentenced to concurrent terms of seventy-one months to fifteen years' imprisonment. Defendant appeals by right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that there was insufficient evidence presented to prove he was aware marijuana was being transported in the truck in which he was a passenger. We disagree.

In reviewing the sufficiency of the evidence, this Court must view the evidence de novo in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999), quoting *People v Wolfe*, 440 Mich 508, 513-516; 489 NW2d 748, amended 441 Mich 1201 (1992). We will not interfere with the jury's role of determining the weight of evidence or the credibility of witnesses. *Id.* at 514-515.

Here, contrary to defendant's assertions, there was more than sufficient evidence to establish that defendant was not only aware that marijuana was being transported but also instigated and participated in planning and carrying out of the delivery. The testimony proved defendant made arrangements to have his co-defendant provide a truck, that he helped load the

truck, accompanied the marijuana to Michigan and then helped unload the marijuana upon its arrival.

We affirm.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Jane E. Markey